

AMENDED IN ASSEMBLY AUGUST 18, 2016

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AMENDED IN SENATE APRIL 18, 2016

**SENATE BILL**

**No. 1076**

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**Introduced by Senator Hernandez**

February 16, 2016

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An act to amend Section 128765 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Hernandez. General acute care hospitals: observation services.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law requires general acute care hospitals to apply for supplemental services approval and requires the department, upon issuance and renewal of a license for certain health facilities, to separately identify on the license each supplemental service.

This bill would require a general acute care hospital that provides observation services, as defined, to comply with the same licensed nurse-to-patient ratios as supplemental emergency services, as specified. The bill would require that a patient receiving observation services receive written notice, as prescribed, that his or her care is being

provided on an outpatient basis, which may affect the patient's health coverage reimbursement. The bill would require observation units to be identified with specified signage, and would clarify that a general acute care hospital providing services described in the bill would not be exempt from these requirements because the hospital identifies those services by a name or term other than that used in the bill. Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Health Data and Advisory Council Consolidation Act, requires every organization that operates, conducts, or maintains a health facility to make and file with the Office of Statewide Health Planning and Development (OSHPD) specified reports containing various financial and patient data. Existing law requires OSHPD to maintain a file of those reports in its Sacramento office and to compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure.

This bill would require OSHPD to include summaries of observation services data, upon request, in the data summaries maintained by OSHPD under the act.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1253.7 is added to the Health and Safety  
2 Code, to read:  
3 1253.7. (a) For purposes of this chapter, "observation services"  
4 means outpatient services provided by a general acute care hospital  
5 and that have been ordered by a provider, to those patients who  
6 have unstable or uncertain conditions potentially serious enough  
7 to warrant close observation, but not so serious as to warrant  
8 inpatient admission to the hospital. Observation services may  
9 include the use of a bed, monitoring by nursing and other staff,  
10 and any other services that are reasonable and necessary to safely

1 evaluate a patient's condition or determine the need for a possible  
2 inpatient admission to the hospital.

3 (b) When a patient in an inpatient unit of a hospital or in an  
4 observation unit, as defined in subdivision (c), is receiving  
5 observation services, or following a change in a patient's status  
6 from inpatient to observation, the patient shall receive written  
7 notice, as soon as practicable, that he or she is on observation  
8 status. The notice shall state that while on observation status, the  
9 patient's care is being provided on an outpatient basis, which may  
10 affect his or her health care coverage reimbursement.

11 (c) For purposes of this chapter, "observation unit" means an  
12 area in which observation services are provided in a setting outside  
13 of any inpatient unit and that is not part of an emergency  
14 department of a general acute care hospital. A hospital may  
15 establish one or more observation units that shall be marked with  
16 signage identifying the observation unit area as an outpatient area.  
17 The signage shall use the term "outpatient" in the title of the  
18 designated area to indicate clearly to all patients and family  
19 members that the observation services provided in the center are  
20 not inpatient services. Identifying an observation unit by a name  
21 or term other than that used in this subdivision does not exempt  
22 the general acute care hospital from compliance with the  
23 requirements of this section.

24 (d) Notwithstanding subdivisions (d) and (e) of Section 1275,  
25 an observation unit shall comply with the same licensed  
26 nurse-to-patient ratios as supplemental emergency services. This  
27 subdivision is not intended to alter or amend the effect of any  
28 regulation adopted pursuant to Section 1276.4 as of the effective  
29 date of the act that added this subdivision.

30 SEC. 2. Section 128765 of the Health and Safety Code is  
31 amended to read:

32 128765. (a) The office shall maintain a file of all the reports  
33 filed under this chapter at its Sacramento office. Subject to any  
34 rules the office may prescribe, these reports shall be produced and  
35 made available for inspection upon the demand of any person, and  
36 shall also be posted on its *Internet* Web site, with the exception of  
37 discharge and encounter data that shall be available for public  
38 inspection unless the office determines, pursuant to applicable law,  
39 that an individual patient's rights of confidentiality would be  
40 violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office's Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. Upon request, these shall include summaries of observation services ~~data~~ *data*, *in a format prescribed by the office*. The summaries shall be posted on the office's Internet Web site. The office may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to ~~assure~~ *ensure* that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the

1 director with an annual report on changes that can be made to  
2 improve the public's access to data.

3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.